

Fiscal Note

Fiscal Services Division



SF 2330 – Sales and Use Tax Nexus (LSB 5408SZ.1)

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Fiscal Note Version – REVISED

Description

Senate File 2330 expands the definition, for sales and use tax collection purposes, of a retailer maintaining a place of business in the State to include any person that has substantial nexus in Iowa, other than a common carrier, if that person engages in any of the following activities:

- Sells a similar line of products as the retailer and does so under the same or a similar name.
- Maintains an office, distribution facility, warehouse, storage place, or similar place of business in the State to facilitate the delivery of property or services sold by the retailer to the retailer's customers.
- Uses trademarks, service marks, or trade names in the State that are the same or substantially similar to those used by the retailer.
- Delivers, installs, assembles, or performs maintenance services for the retailer's customers.
- Facilitates the retailer's deliveries of property to customers in the State by allowing the retailer's customers to take delivery of property sold by the retailer at an office, distribution facility, warehouse, storage place, or similar place of business maintained by the person in the State.
- Conducts any other activities in the State that are significantly associated with the retailer's ability to establish and maintain a market for the retailer's sales.

Assumptions

- Currently, the Department of Revenue already considers some of the expanded definitions provided in the Bill to establish nexus; therefore, companies meeting those criteria should already be remitting sales tax. Additionally, the Department is not aware of any current retailers that will be impacted by this Bill.
- The United States e-commerce share of retail sales is calculated at 4.5% (based on U.S. Census Bureau retail sales data from March 2006 through December 2011).
- Iowa taxable retail sales data for FY 2007 through FY 2011 is from the Department of Revenue's sales and use tax database.
- Currently, approximately 15.0% of e-commerce sales in the State are subject to State sales tax. Those sales are made by businesses with nexus under current law.
- Additionally, some online retailers participate in the Streamlined Sales Tax Program and currently collect and remit sales tax on purchases made by Iowa residents. The amount collected in FY 2011 was approximately \$12.0 million.
- Iowa residents that make online purchases are required to pay consumer use tax for taxable items. However, compliance and enforcement are minimal.
- Potentially, in future fiscal years, it is assumed the additional percent of e-commerce retail sales is estimated at 10.0% of current total e-commerce retail sales in Iowa. The Department of Revenue estimates the amount of total e-commerce retail sales in Iowa is \$782.6 million in FY 2013.
- The average annual growth rate of e-commerce retail sales share of total retail sales is 8.6% (based on the national e-commerce share of retail sales from FY 2007 to FY 2011).

- Annual average taxable retail sales are estimated to increase 3.7% in FY 2012, 3.4% in FY 2013, 3.7% in FY 2014, 4.4% in FY 2015, and 3.8% in FY 2016.
- The State sales tax rate is 6.0% with five-sixths of the State sales tax deposited in the General Fund and one-sixth deposited in the Secure an Advanced Vision for Education Fund. The statewide average local option sales tax rate is 0.87%.

Fiscal Impact

The provisions of [SF 2330](#) will currently not impact any retailers in Iowa and is not anticipated to have a fiscal impact in FY 2013. However, in future fiscal years the Bill may provide for the potential of increased sales tax collection from e-commerce sales within the State. Based on the assumptions noted above, the potential impact on State sales tax revenue may be in excess of \$4.7 million annually.

Sources

Iowa Department of Revenue
LSA calculations

/s/ Holly M. Lyons

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The fiscal note for this bill was prepared pursuant to **Joint Rule 17**. Data used in developing this fiscal note is available from the Fiscal Services Division of the Legislative Services Agency upon request.
